

REMARKS

This amendment is submitted to be fully responsive to the final Office Action of Paper No. 20070315a. By way of this amendment, claim 1 is amended. Support for the claim amendments is found within the claims as filed and in Fig. 3. As such, it is submitted that no new matter has been added to the application by way of this amendment.

Currently pending claims 1-9 and 11 are newly rejected under 35 U.S.C. §103(a) over Shimamura et al. (U.S. 4,737,153) in view of Adler (U.S. 4,158,916).

Applicant respectfully submits that pending independent claim 1 in current form has aspects not found in the prior art with respect to the cage member construction and specifically “a plurality of longitudinally stringers and a plurality of annular rings attached to an outer surface of the stringers” overlying the intake end of an elongated flexible body member. (Claim 1, lines 8-9). This recitation of claim 1 is nowhere found in the prior art and is entitled to patentable weight. Alternatively, the prior art combination fails to afford the claimed invention on the basis of this claim language.

The basis of the rejection is that Shimamura discloses a reinforced catheter “comprising an elongate flexible body 4 having a tip 2 with a plurality of openings 8 formed in the wall of the catheter, and a rigid helical support element 6 embedded in the wall (Abstract)” (Paper No. 20070315a, section 3, page 2). Shimamura is found to be deficient relative to the teachings of claim 1 in lacking a cage member. Adler is cited to bolster the teachings of Shimamura in this regard with respect to reference numeral 34 in the figures and also detailed in column 2, lines 50-55. The stated basis for this combination is that “it would have been obvious to one of ordinary skill in the art at the time of invention to modify the catheter of Shimamura to include a cage

member as taught by Adler to prevent the apertures from becoming clogged, thereby maintaining an open flow of material through the catheter." (Paper No. 20070315a, section 3, page 2).

As an initial matter, 35 U.S.C. § 103(a) states that obviousness is to be assessed relative to "the art to which the subject matter pertains." Accordingly, a prerequisite for application of art is that it relates to the subject matter sought to be patented.

Adler discloses a suction apparatus in the field of dental practice. Motivation to prevent the apertures from becoming clogged while applicable to a dental suction apparatus per Adler is inapplicable to the claimed invention which pertains to a venous cannula. As such, an inventive cannula is only exposed to blood but not saliva mucosal discharges and rather, allows one to draw a vacuum from the cannula while maintaining a gap relative to the tissue walls of the heart so as to allow blood flow into the inventive cannula (page 3, lines 7-8). As such, Applicant submits that one of ordinary skill in the art developing a venous cannula would lack the motivation as detailed in the outstanding final Office Action.

Pending claim 1 in current form recites a cage member with a plurality of longitudinally stringers and a plurality of annular rings attached to an outer surface of said plurality of stringers. Applicant submits that this limitation is nowhere found in the prior art. Rather, as Shimamura is silent as to a cage, all teachings in this regard must be found within Adler. However, Adler fails to teach a cage member with annular rings and longitudinal stringers.

Adler appears to teach a meshing screen 34 with individual strands intertwined or weaved on a plane (Figs. 8 and 9). Therefore, Adler fails to teach annular rings being attached to an outer surface of stringers.

In addition, the meshing screen 34 of Adler encloses the entire surface of the head 14 including the forward-most end of the tube 12 (Fig. 8 and column 3, lines 4-9). Therefore,

strands of Adler appear to be in a "U" shape when a cross-sectional view is taken along line 9-9 of Fig.8 (Fig. 9). The "U" shape strands are not the longitudinal stringers of claim 1.

Furthermore, the meshing screen 34 of Adler covers a plurality of holes 32 but not radial openings 19 as taught in claim 1. It is submitted that randomly fine holes per Adler are structurally different from the radial openings of claim 1.

As such, Adler and the prior art reference combination as a whole fails to teach not only the annular rings being positioned on the outer surface of the stringers but also the resulting cage member as an effective covering device for the radial openings.

Combining the teachings of Shimamura and Adler, for argument's sake, would therefore yield a fine meshing screen of Adler with intertwined strands completely enclosing the tip portion of a catheter according to Shimamura. The resulting hypothetical device would not provide axial communication through the uncovered axial opening 21. This prior art reference combination hypothetical device is inconsistent with the recitation of independent claim 1 that recites axial openings that remain open to the flow of blood despite the presence of the cage member. This feature is nowhere found in the prior art reference combination.

In light of the above remarks, claim 1 is submitted to be nonobvious over the prior art of record. Should this rejection be maintained, it is requested that the teachings of Adler with respect to ring and stringer construction of a cage be stated with greater specificity.

Claims 2-9 and 11 are submitted to be patentable on the basis of dependency from claim 1, now believed to be in allowable form. Applicant submits that there exist separate basis for the allowability of the subject matter of the dependant claims, and reserves the right to make such remarks at a later time.

In light of the above amendments and remarks, reconsideration and withdrawal of the rejection as to claims 1-9 and 11 under 35 U.S.C. §103(a) over Shimamura in view of Adler is requested.

Summary

Claims 1-9 and 11 are pending in the application. By way of this amendment, claim 1 has been amended. All the pending claims are now believed to be in allowable form and directed to patentable subject matter. Reconsideration and withdrawal of the rejections is requested. Should the Examiner have any suggestions as to how to improve the form of the claims, it is respectfully requested that the undersigned attorney be contacted.

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Respectfully submitted,

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